IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5497 OF 2005

Madhukar Namdeo Takavale & Ors. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr.Vijay Patil for the Applicants.
Mr.A.S.Gadkari,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 31,2005

P.C.:

1. Heard Advocate for the Applicants and the learned A.P.P. for State. The offence registered against the Applicants is under Sections 143,147,148,149,307,452 and 506 of Indian Penal Code. The learned Advocate for the Applicants submitted that the first informant is an Eye Witness and he has not named any of the Applicants as persons assaulting him. He submitted that considering the injury certificate of the first informant Section 307 of the I.P.C. will not apply. The learned A.P.P. pointed out that the Applicants have entered in an educational institution in a broad day light and have committed serious offence. He, therefore, submitted that the Applicants are not entitled to be enlarged on bail. He submitted that even if the Applicants are to be enlarged on bail, stringent conditions will have to be imposed as there is an apprehension of danger to the witnesses.

2. I have considered the submissions. Medical Certificate of the first informant discloses that the injury sustained by him

is of a simple nature. Perusal of the F.I.R. shows that no clear role has been ascribed to any of the Applicants specifically as regards assault on the head of the first informant. At this stage, it appears that there is a substance in the submission of the learned Counsel for the Applicants that Section 307 of the I.P.C. may not be applicable.

3. In this view of the matter, a case is made out for enlarging the Applicants on bail. Looking to the nature of the allegations in the F.I.R., there is some substance in the apprehension expressed by the prosecution regarding threat to the eye witnesses. Therefore, stringent conditions will have to be imposed on the Applicants. Applicant Nos.1 and 2 will have to be restrained from entering the area falling within the jurisdiction of Phaltan Police station till the conclusion of trial. Applicant No.3 is a student and therefore the said condition will not apply to the Applicant No.3.

4. Hence, I pass the following order :

i) The Applicants shall be enlarged on bail in connection with C.R.No.193 of 2005 registered with Phaltan Police Station, District Satara subject to furnishing a personal bond of Rs.10,000/- (Rupees ten thousand) each with one or two local sureties in the like amount.

ii) Bail is granted subject to the condition that the Applicant No.1-Madhukar Namdeo takavale and No.2-Sudhir Babasaheb Nimbalkar will not enter the area falling within the jurisdiction of Phaltan Police Station till the conclusion of trial except for marking attendance as mentioned in clause No.(iii) herein.

iii) Bail is granted subject to the condition that the Applicants will attend the Phaltan Police station twice in a week till filing of the charge sheet and will co-operate for the purpose of investigation.

iv) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) The Applicants shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act upon an authenticated copy of this order.

JUDGE